

# Notice of Allowability

Application No.

10/607,797

Examiner

Le Nguyen

Applicant(s)

WECKER ET AL.

Art Unit

2174

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12/19/06 interview.
2. ☒ The allowed claim(s) is/are 16-25.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 12/19/06, 1/22/07.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

*Kristine Kincaid*  
KRISTINE KINCAID  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100

***Examiner's Amendment and Reasons for Allowance***

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

2. Authorization for this examiner's amendment was given in a telephone interview with Mr. Peter Chu on 12/19/06.

3. The application has been further amended as follows:

Claims 1-15 have been cancelled.

Claim 16 has been amended as follows:

16. A method implemented in a computer system for presenting context-sensitive menus as a user navigates a pointer, comprising: gathering data regarding a windowing environment in which the pointer navigates; educating user interface elements at a target to which the pointer navigates; and displaying a sector menu that moves with the pointer, the act of displaying including displaying multiple segments formed by multiple radii cutting the sector menu, a segment housing a menu item which includes a user interface element at the target toward which the pointer navigates wherein the sector menu lacks a segment, defining a devoid segment, and wherein the devoid segment is oriented in the direction toward which the pointer is moving except when the pointer is moving over one of the multiple segments to select said one of the multiple segments.

Claim 21 has been amended as follows:

21. A computer-readable storage medium having computer-executable instructions that implements a method for providing context-sensitive menus, the method comprising: gathering data regarding a windowing environment in which the pointer navigates; educating user interface elements at a target to which the pointer navigates; and displaying a sector menu that moves with the pointer, the act of displaying including displaying multiple segments formed by multiple radii cutting the sector menu, a segment housing a menu item which includes a user interface element at the target toward which the pointer navigates wherein the sector menu lacks a segment, defining a devoid segment, and wherein the devoid segment is oriented in the direction toward which the pointer is moving except when the pointer is moving over one of the multiple segments to select said one of the multiple segments.

4. Upon initial review of the claims it appears that claims 1-25 differ in subject matter and therefore require a different search. In accordance with this a restriction is deemed proper.

5. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-10, drawn to items displayed in the form of a sector of a circle, classified in class 715, subclass 834.
- II. Claims 11-15, drawn to an interface element that is a graphical representation of a function or system resource that is accessed when the graphical representation is selected by user interaction, classified in class 715, subclass 835.

III. Claims 16-25, drawn to a path or shape described by user input being indicative of a desired operation, classified in class 715, subclass 863.

6. Inventions Groups I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination invention Group II has separate utility such as a menu moving with an on-screen cursor. See MPEP § 806.05(d).

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Inventions Group III and Groups I-II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed

does not require the particulars of the subcombination as claimed because a sector menu surrounding the on-screen cursor is not required by the claimed combination. The subcombination has separate utility such as having menu items representing operations of target UI elements.

7. Because these inventions are distinct for the reasons given above, restriction for examination purposes as indicated is proper.

During a telephone conversation with Mr. Peter Chu on 12/8/06 a provisional election was made without traverse to prosecute the invention of Group III, claims 16-25. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-15 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

8. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

9. The following is an examiner's statement of reasons for allowance:

The prior art made of record fails to anticipate or make obvious the claimed invention. Specifically, the prior art fails to teach, in combination with the remaining elements:

a method for providing context-sensitive menus comprising displaying a sector menu that moves with the pointer, the act of displaying including displaying multiple segments formed by multiple radii cutting the sector menu, a segment housing a menu item which includes a user interface element at the target toward which the pointer navigates *wherein the sector menu lacks a segment, defining a devoid segment, and wherein the devoid segment is oriented in the direction toward which the pointer is moving except when the pointer is moving over one of the multiple segments to select said one of the multiple segments* and educating user interface elements at a target to which the pointer navigates as recited in claims 16 and 21.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### **Conclusion**

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Schirmer (US 6,369,837) teaches a fan menu or half of a pie menu.

Selker (US 6,549,219 B2) teaches a pie menu GUI.

Vayda et al. (US 5,798,760) teach a radial graphical menuing system with concentric region menuing.

Atkinson (US 5,701,424) teaches Palladian menus.

Buxton et al. (US 5,798,752) teach a UI having simultaneously movable tools and cursor.

***Inquires***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Lê Nguyen whose telephone number is **(571) 272-4068**. The examiner can normally be reached on Monday - Friday from 7:00 am to 3:30 pm (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid, can be reached at (571) 272-4063.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LVN  
Patent Examiner  
December 19, 2006